

MINUTES OF THE CITY COUNCIL

SAN JOSE, CALIFORNIA

TUESDAY, JANUARY 24, 1995

The Council of the City of San Jose convened in regular session at 9:30 A.M. in Council Chambers at City Hall.

Present: Council Members -Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Absent: Council Members -None.

Vacant: Council District 10.

Upon motion unanimously adopted, Council recessed to a Closed Session at 9:35 A.M. in Room 600 to confer with Legal Counsel pursuant to Government Code Section 65956.9; under Subsection (a) to discuss existing litigation in the cases of (1) In re Anderson, (2) In re Simpson, (3) Mitz v. City of San Jose, et al., (4) Cosey v. City of San Jose, (5) Long v. Mission National Insurance Company, et al., and (6) Perry v. City of San Jose; and to discuss anticipated litigation pursuant to Government Code Section 65956.9, under Subsection (b) to discuss one matter regarding significant exposure.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:15 A.M. and reconvened at 1:37 P.M. in the Council Chambers.

Present: Council Members -Diaz, Diquisto, Fernandes, Fiscalini, Johnson, Pandori, Powers, Shirakawa, Woody; Hammer.

Absent: Council Members -None.

Vacant: Council District 10.

INVOCATION

Reverend Dr. Thomas E. Anderson, Zion Lutheran Church, delivered the Invocation.
(District 1)

PLEDGE OF ALLEGIANCE

Mayor Hammer led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Powers, seconded by Council Member Johnson, and unanimously carried, Item 6e(10) was deferred to February 7, 1995, and the Orders of the Day, and the Amended Agenda, were approved. Vote: 10-0-0-0-1. Vacant: District 10.

CEREMONIAL ITEMS

5a Presentation of commendations to the Archbishop Mitty High School Monarchs Division III Girls Volleyball State Champions and to the Monarchs Central Coast Division IV Football Champions. (Johnson)

Documents filed: None.

Discussion/Action: Mayor Hammer was joined at the podium by Council Member Johnson for presentation of commendations to the Archbishop Mitty High School Monarchs Division III Girls Volleyball State Champions for winning their second State Championship title, and to the Monarchs Football Team for winning their first Central Coast Division IV title, and called to the podium Athletic Director Keith Matthews, Varsity Coach Dave Brown, and Volleyball Coach Mike Pitts--Team members were asked to stand and be recognized.

CONSENT CALENDAR

Minutes for Approval

6a(1) Regular Meeting of November 8, 1994

Documents filed: Minutes of November 8, 1994.

Discussion/Action: The minutes were approved. Vote: 10-0-0-0-1. Vacant: District 10.

6a(2) Special Personnel Closed Session of November 11, 1994

Documents filed: Minutes of November 11, 1994.

Discussion/Action: The minutes were approved. Vote: 10-0-0-0-1. Vacant: District 10.

6a(3) Special Personnel Closed Session of November 12, 1994

Documents filed: Minutes of November 12, 1994.

Discussion/Action: The minutes were approved. Vote: 10-0-0-0-1. Vacant: District 10.

6a(4) Special Personnel Closed Session of November 17, 1994

Documents filed: Minutes of November 12, 1994.

Discussion/Action: The minutes were approved. Vote: 10-0-0-0-1. Vacant: District 10.

Ordinances for Final Adoption

6b(1) ORD. NO. 24799 - Rezones certain real property situate on the west side of Senter Road, 650 feet northerly of Burke Street.

Documents filed: Proof of publication of title of Ordinance No. 24799 submitted by the City Clerk.

Discussion/Action: Ordinance No. 24799 was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

Contracts/Agreements

**6e(1) Adoption of a resolution authorizing the City Manager to negotiate and execute a geologic consultant agreement for the completion of the San Jose Geologic Hazard Study Area Regional Phase IA Study, in an amount not to exceed \$70,000. (Public Works)
[Deferred from 12/13/94 - Item 6e(21)]**

6e(1) (Cont'd.)

Documents filed: None.

Discussion/Action: This item was deferred to February 7, 1995.

6e(2) Approval of a fifth amendment to the lease agreement with Scotsman Group for the modular building to serve as a temporary Federal Inspection Services (FIS) Facility at San Jose International Airport, to extend the term for an additional

three (3) years, from February 1, 1995 to January 31, 1998, and reduce the monthly rental rate by \$70,223, from \$83,356 to \$13,133. CEQA: Exempt. (Airport)

Documents filed: None.

Discussion/Action: This item was deferred to February 7, 1995.

- 6e(3) (a) Approval of a second amendment to the agreement for a computerized noise monitoring system at San Jose International Airport to provide for maintenance service for the period July 1, 1994 to June 30, 1997, in an amount not to exceed \$236,245.**
- (b) Approval of assignment from Technology Integration, Inc. (TII) to Larson Davis Systems.**
- (Airport)**

Documents filed: None.

Discussion/Action: This item was deferred to February 7, 1995.

- 6e(4) Adoption of a resolution approving an agreement with the County of Santa Clara establishing a flat criminal justice administrative (booking) fee for three (3) fiscal years beginning July 1, 1994 and ending June 30, 1997. (City Manager's Office)**

Documents filed: (1) Memorandum from City Attorney Joan R. Gallo, dated January 20, 1995, recommending adoption of said resolution. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated January 24, 1995, recommending adoption of said agreement.

- 6e(4) (Cont'd.)**

Discussion/Action: Resolution No. 65703, entitled: "A Resolution of the Council of the City of San Jose Approving an Agreement with the County of Santa Clara Establishing a Flat Criminal Justice Administration (Booking) Fee for Three Fiscal Years Beginning July 1, 1994 and Ending June 30, 1997, was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(5) Approval of employment agreement with Nora Campos. (Diaz)**

Documents filed: None.

Discussion/Action: The employment agreement with Nora Campos was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(6) Report on bids and award of contract for the construction project entitled "San Jose/Santa Clara Water Pollution Control Plant, East Primaries Controls Upgrade" to the low bidder, Graham Electrical Contractors, Inc., in the amount of \$210,400. CEQA: Exempt. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 6, 1995, recommending award of said contract to the low bidder, Graham Electrical Contractors, Inc. (2) Memorandum from Director of Affirmative Action/Contract Compliance, Steven T. Wing, dated January 19, 1995, stating that the Office of Contract Compliance concurs with said award.

Discussion/Action: The award of contract to the low bidder, Graham Electrical Contractors, Inc. was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(7) Approval of an agreement with Palo Alto Medical Foundation for consultant medical services for the Federated Retirement System and the Police and Fire Department Retirement Plan, in an amount not to exceed \$75,000, for the period January 1, 1995 to December 31, 1995. (Federated and Police & Fire Retirement Boards)**

Documents filed: (1) Memorandum from Federated and Police and Fire Retirement Boards, dated January 6, 1995, recommending approval of said agreement.

- 6e(7) (Cont'd.)**

Discussion/Action: The agreement with Palo Alto Medical Foundation was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

- 6e(8) Approval of an agreement with Metricom Incorporated for the installation and operation of wireless data radio repeaters on approximately 700 City streetlight poles, for the period January 24, 1995 to January 24, 2000, with annual revenue to the City of approximately \$42,000. CEQA: Exempt. (General Services/Office of Economic Development)**

Documents filed: (1) Memorandum from Director of Information Systems, Ellis M. Jones, Jr., and Assistant Director of Economic Development, Pamela A. Stone, dated January 6, 1995, recommending approval of said agreement. (2) Correspondence

from William J. Garbett, dated January 24, 1995, regarding abatement of public nuisance.

Discussion/Action: William Garbett addressed the Council in opposition to this item. The agreement with Metricom Incorporated was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

6e(9) Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 1994-95 #10, and authorization for the Director of General Services to execute the purchase orders. (General Services)

Documents filed: (1) Memorandum from Director of Information Systems, Ellis M. Jones, Jr., dated January 6, 1995, recommending award of open purchase order list #10 for FY 1994-95. (2) Letter from the Treatment Plant Advisory Committee, dated January 13, 1995, recommending approval of said awards.

Discussion/Action: Open purchase order list #10 for FY 1994-95 was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

6e(10) (a) Approval of a one (1) year agreement with four (4) one (1) year options for renewal for landscape maintenance at the Water Pollution Control Plant with Four Seasons Landscape and Maintenance, Inc., for the period February 1, 1995 to January 31, 1996, in the amount of \$248,000.

6e(10) (Cont'd.)

**(b) Authorization for the Director of General Services to exercise the options for renewal of the agreement each option year based on the Consumer Price Index (CPI) adjustment and contingent upon Council appropriation of funds thereto.
(General Services)**

Documents filed: None.

Discussion/Action: This item was deferred to February 7, 1995.

6e(11) Report on bids and award of contract for the Traffic Signal Installation at Chynoweth Avenue and Edenvale Avenue-Lean Avenue Project to the low bidder, Rosendin Electric, Inc., in the amount of \$119,200. CEQA: Exempt. (Public Works)

Documents filed: (1) Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 6, 1995, recommending award of said contract to the low bidder, Rosendin Electric, Inc. (2) Memorandum from Director of Affirmative Action/Contract Compliance, Steven T. Wing, dated January 19, 1995, stating the Office of Contract Compliance concurs with the recommended award.

Discussion/Action: The award of contact to the low bidder, Rosendin Electric, Inc., was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

6e(12) Approval of Contract Change Order No. 4 with J. W. Ebert, Corp., for the Senter-Monterey Sanitary Sewer Rehabilitation Phase I, in the amount of \$71,301.93, for a total contract amount of \$878,482.96. CEQA: Exempt. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 6, 1995, recommending approval of said contract change order.

Discussion/Action: Contract Change Order No. 4 with J. W. Ebert, Corp. was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

6e(13) Approval of continuation agreement with David J. Powers & Associates for environmental consulting services related to the Winfield Boulevard Project, extending the term of the agreement from December 31, 1994 to June 30, 1995, and increasing the compensation by \$15,000, from \$77,000 to \$92,000. (Public Works)

Documents filed: Memorandum from Director of Public Works, Ralph A. Qualls, Jr., dated January 11, 1995, recommending approval of said agreement.

Discussion/Action: William Garbett addressed Council in opposition to this item. The continuation agreement with David J. Powers & Associates was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

6e(14) Approval of a first amendment to the agreement with the City of Santa Clara for the maintenance and operation of designated public improvements installed along common corporate limits, at no additional cost to the City. CEQA: Exempt. (Streets and Parks)

Documents filed: Memorandum from Director of Streets and Parks, Wayne K. Tanda, dated January 6, 1995, recommending approval of said amendment.

Discussion/Action: The amendment to said agreement with the City of Santa Clara was approved and its execution authorized. Vote: 10-0-0-0-1. Vacant: District 10.

**6e(15) Approval of a waiver of a provision requiring construction performance bond(s) for the restated lease agreement with Raging Waters, San Jose. (Convention, Cultural & Visitor Services)
(Orders of the Day 4a)**

Documents filed: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated January 19, 1995, recommending approval of said waiver.

Discussion/Action: The waiver of said provision requiring construction performance bond(s) for the restated lease agreement with Raging Waters, San Jose, was approved. Vote: 10-0-0-0-1. Vacant: District 10.

**6e(16) (a) Approval of a one (1) year agreement with four (4) one (1) year options with L & N Uniforms for uniform rental and laundry services City-wide based on rates provided, and approval to execute open purchase order for the period February 1, 1995 to January 31, 1996 in an amount not to exceed \$150,000.
(b) Authorization for the Director of General Services to exercise the options for renewal of the agreement each option year based on the Consumer Price Index (CPI) adjustment not to exceed 7 percent and contingent upon appropriation of funds.
(General Services)**

Documents filed: None.

Discussion/Action: This item was deferred to February 7, 1995.

Routine Legislation

6f(1) Approval of an ordinance amending Chapter 10.42 of Title 10 of the San Jose Municipal Code to decriminalize the Burglary and Robbery False Alarm Ordinance. (City Attorney's Office)

Documents filed: Memorandum from City Attorney Joan R. Gallo, dated January 20, 1995, recommending approval of the proposed ordinance.

Discussion/Action: Ordinance No. 24801, entitled: "An Ordinance of the City of San Jose Amending Chapter 10.42 of Title 10 of the San Jose Municipal Code to Decriminalize the Burglary and Robbery False Alarm Ordinance", was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10.

6f(2) Adoption of appropriation ordinance and revenue resolution amendments in various Redevelopment Project Area Fund and in the Services for Redevelopment Capital Projects Fund. (City Manager's Office)

Documents filed: Memorandum from Budget Director, Larry D. Lisenbee, dated January 17, 1995, recommending adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 24802, entitled: "An Ordinance of the City of San Jose amending Ordinance No. 24658 which Appropriates Moneys in Various Redevelopment Project Area Funds, and in the Services for Redevelopment Capital

6f(2) (Cont'd.)

Projects Funds to Implement Certain Rebudget Adjustments and to Provide City Services for Various Capital Projects; and Providing That This Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 65704, entitled: "A Resolution of the Council of the City of San Jose Amending Resolution No. 65348 for the Fiscal Year 1994-95 to Adjust Revenues in Various Redevelopment Capital Projects Funds, were adopted. Vote: 10-0-0-0-1. Vacant: District 10.

6f(3) Approval of an ordinance amending Chapter 4.80 of Title 4 of the San Jose Municipal Code to establish a new fund for Services for Redevelopment Capital Projects Fund. (City Manager's Office)

Documents filed: Memorandum from Budget Director, Larry D. Lisenbee, dated January 11, 1995, recommending adoption of said appropriation ordinance and related revenue resolution amendments.

Discussion/Action: Ordinance No. 24803, entitled: "An Ordinance of the City of San Jose Amending Chapter 4.80 of Title 4 of the San Jose Municipal Code to Establish the Services for Redevelopment Capital Projects Funds", was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10.

- 6f(4) Approval for Regina V.K. Williams, City Manager to travel to Washington, D.C., on February 2, 1995 to February 5, 1995, to attend the quarterly board meeting of the National Forum for Black Public Administrators (NFBPA) and to Tampa, Florida, on April 7, 1995 to April 13, 1995, to attend the annual NFBPA Conference. (City Manager's Office)**

Documents filed: Memorandum from City Manager, Regina V.K. Williams, dated January 20, 1995, recommending approval of said travel request.

Discussion/Action: The travel for City Manager Williams to Washington, D.C. February 2-5, 1995, was approved. Vote: 10-0-0-0-1. Vacant: District 10.

- 6f(5) Approval of the appointments to the Board of Directors of The Silicon Valley Pollution Prevention Center. (Environmental Services)**

Documents filed: None.

- 6f(6) Approval for Mayor Susan Hammer to travel to Washington, D.C., on February 8-12, 1995, to attend a ACTPN meeting. Funding: Citywide Fund: Presidential Advisory Commission on Trade. (Mayor)
(Rules Committee referral 1/18/95)**

Documents filed: None.

Discussion/Action: The request for Mayor Hammer to travel to Washington, D.C. on February 8-12, 1995, was approved. Vote: 10-0-0-0-1. Vacant: District 10.

END OF THE CONSENT CALENDAR

COMMISSION, COMMITTEE, AND STANDING REPORTS

7b Report of the Rules Committee - January 11, 1995

Documents filed: Rules Committee report of January 11, 1995.

- (1) Review of January 24 Council Agenda

The Committee recommended approval of the January Council Agenda with two additions.

- (2) Add New Items to January 17 Amended Council Agenda

Drop - meeting canceled.

- (3) The Public Record: November 30, 1994 - January 3, 1995. Attachments: (1) Memorandum from the City Clerk, dated January 5, 1995, listing items transmitted to the Administration and filed for the public record for the period November 30, 1994 - January 3, 1995. (2) Memorandum from Assistant to the City Manager, Nina S. Grayson, dated January 11, 1995, summarizing actions taken on the items transmitted to the Administration for the period November 30, 1994 - January 3, 1995.

The Committee directed the Administration to meet with the author of letter (a) to determine whether or not any of his yard waste issues are new and have not been addressed in recent Committee and Council meetings; directed referral of the Report of 1994 Public Hearings on Child Care to the budget process; and recommended approval of the Public Record.

7b

Report of the Rules Committee - January 11, 1995 (Cont'd.)

- (4) Boards and Commissions
(a) Federated Retirement Board. Attachments: (1) Memorandum from Ed Overton, Secretary to Federated Retirement Board, dated December 13, 1994, recommending approval of William A. Bascom to fill the position as Banker Member on the Federated Retirement Board. (2) Memorandum from City Attorney Joan R. Gallo, dated January 9, 1995, noting any areas of potential conflict of interest disclosed by the applications.

The Committee recommended appointment of William A. Bascom to fill the Banker Member position on the Federated Retirement Board for a term ending November 30, 1998.

- (5) Adjustment to Commissioners' Terms. Attachment: Memorandum from Gerardo Amador, Chair of the Parks and Recreation Commission, dated December 4, 1994, recommending adjustments to Commissioners' terms.

The Committee referred this item to the Mayor's Office.

- (6) Silicon Valley Nonprofit Center. Attachments: Memorandum from Mary Helen Doherty, Chair of the Housing Advisory Commission, dated December 16, 1994, requesting City Council support for the development of the Silicon Valley Nonprofit Center.

The Committee referred this item to the Administration.

- (7) Adopt recommendations of the Housing Management Strategies Task Force. Attachments: Memorandum from Mary Helen Doherty, Chair of the Housing

Advisory Commission, dated December 16, 1994, recommending City Council adopt and implement the Housing Management Strategies Task Force Report.

The Committee referred the recommendations to the Administration.

- (8) Auditor's report on the San Jose Development Corporation

The Committee recommended deferral to 1/18/95 Rules Committee.

7b Report of the Rules Committee - January 11, 1995 (Cont'd.)

- (9) Request to use Council General funds to attend the League of California Cities Committee on Housing, Community and Economic Development in Burbank, CA on January 12, 1995. Attachments: (1) Memorandum from Council Members Powers, Johnson and Fernandes, dated January 3, 1995, requesting use of Council General funds to attend League of California Cities Committee meetings in Burbank, CA on January 12 and 13, 1995. (2) Memorandum from City Clerk, Patricia L. O'Hearn, dated January 11, 1995, summarizing the 1994-95 use of Council General Travel Budget.

The Committee recommended the use of Council General Funds for Council Member Powers, Johnson and Fernandes to attend League of California Cities Committee meetings in Burbank, CA on January 12 and 13, 1994.

- (10) Council Referrals for Assignment to Appropriate Committee, Administration, or Council Appointee
- (a) Council Meeting 12/6/94, Item 15g: Refer to Rules Committee for referral to appropriate committee consideration of the adoption of a soil contamination policy with respect to land use decisions

The Committee referred this item to the Administration for subsequent referral to Transportation, Development and Environment Committee.

- (11) City Council and Rules Committee Meeting Schedules

The Committee changed the starting time of the weekly Rules Committee meeting to 2:30 p.m.

- (12) Oral Communications

William Garbett spoke regarding the effect of a Declaration of Emergency on Public Hearings and the filing deadline for the District 10 Council Member position.

(13) Adjournment

The meeting was adjourned at 2:35 p.m.

Discussion/Action: Upon motion by Council Member Johnson, seconded by Council Member Powers, and unanimously carried, the Committee report and actions of January 11, 1995, were accepted. Vote: 10-0-0-0-1. Vacant: District 10.

7c **Report of the Housing and Community Services Committee - January 9, 1995**

Documents filed: Housing and Community Services Committee Report for January 9, 1995.

- (1) High Speed Data Channel and Base Stations for Police and Fire Communications. Attachments: Informational memorandum from Police Chief Louis A. Cobarruviaz, dated December 15, 1994, to provide a progress report on the project to upgrade the Police Department's Mobile Data Terminal System.

The Committee recommended approval of the Staff recommendations.

- (2) Library Strategic Planning Process. Attachment: Memorandum from City Librarian, James H. Fish, dated December 16, 1994, providing status report on the Library Department's Strategic Planning Process.

The Committee recommended acceptance of the report.

- (3) Follow-Up Report on Neighborhood Development Center Mission & Goals. Attachment: Memorandum from Director of Neighborhood Services, George Penn, dated December 22, 1994, providing follow-up report on Neighborhood Development Center.

The Committee recommended acceptance of the report with the additions that the working group of the Resident Roundtable be appointed by Council, that monthly statistic reports be submitted and that a CAP Grant Update and Survey of CBOs be brought to the Housing and Community Services Committee.

- (4) Special Events Task Force Follow-Up Report. Attachment: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated December 19, 1994, recommending the Council: (1) Accept the Special Events Task Force Follow-up Report; and (1) (a) Rescind existing booth sales fee which ranges from \$10 to \$110 per booth, based on attendance, for all events held in parks by both nonprofit and for-profit organizations; and (b) Approve a revised booth sales fee of \$15/sales booth/event for events

conducted by for-profit organizations occurring in City parks and on other City property and that the fee not apply to events conducted by nonprofit organizations; and (c) Adopt a resolution to amend the 1994-95 Fee Resolutions to reflect recommendations 2(a) and 2(b) effective immediately on Council action.

7c Report of the Housing and Community Services Committee - January 9, 1995 (Cont'd.)

(4) Special Events Task Force Follow-Up Report (Cont'd.)

The Committee recommended approval of the Staff recommendations.

(5) Report on Economic Impact of Special Events and Festivals. Attachment: Memorandum from Director of Convention, Cultural and Visitor Services, Ellen Oppenheim, dated December 21, 1994, recommending Council accept the Economic Impact Report on Selected 1994 Summer Festivals.

The Committee recommended acceptance of the report.

(6) Cultural Tourism Pilot Project Final Report. Attachment: Memorandum from the Arts Commission, dated December 21, 1994, recommending Council: (1) Accept the final report on the Cultural Tourism Pilot Project; (2) Direct the Office of Cultural Affairs to refocus future cultural tourism efforts to a regional marketing program that addresses arts and special events issues and opportunities; and (3) Accept the use of \$50,000 of appropriated FY 1994-95 General Fund Arts Program dollars to proceed with the first state of a sixteen-month community planning phase proposed in the original three-year cultural tourism plan as revised herein.

The Committee recommended acceptance of the report, direction to the Office of Cultural Affairs to refocus future cultural tourism efforts to a regional marketing program that addresses arts and special events issues and defer action on the request of \$50,000 for the planning phase until after the Mayor's Budget Message, when it will be rescheduled for hearing by the Committee.

(7) Cultural Master Plan.

The Committee deferred this item to the January 6, 1995 Committee meeting.

(8) Cultural Facilities O&M Report Preliminary Recommendations

The Committee deferred this item to the January 6, 1995 Committee meeting.

7c Report of the Housing and Community Services Committee - January 9, 1995 (Cont'd.)

- (9) Kelley Park Master Plan & EIR; Happy Hollow Interim Renovation Plan and Financing

The Committee deferred this item to a January 23, 1995 Committee meeting, at 1:30 in Room 204.

- (10) Draft Committee Workplan January-June 1995. Attachment: Draft Workplan for January-June 1995.

The Committee recommended acceptance of the Workplan with the acknowledgment of deferrals from today's meeting and the understanding that the Workplan is a changing plan.

- (11) Oral Petitions

None.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Shirakawa, and unanimously carried, the Committee report and actions of January 9, 1995, were accepted. Vote: 10-0-0-1. Vacant: District 10.

7d Report of the Finance Committee - January 11, 1995

Documents filed: Finance Committee Report for January 11, 1995.

- (1) Oral Petitions

None.

- (2) Orientation and Work Plan. Attachment: Proposed Outline of Finance Committee Orientation

The Committee recommended acceptance of the Workplan.

- (3) Monthly Investment Report for November 1994. Attachment: November 1994 Investment Report.

The Committee recommended acceptance of the report.

7d Report of the Finance Committee - January 11, 1995 (Cont'd.)

- (4) Monthly Financial Report for November 1994. Attachment: Memorandum from Budget Director, Larry D. Lisenbee, dated January 5, 1995, providing November 1994 Financial Report.

The Committee recommended acceptance of the report.

- (5) Monthly Auditor's Report for November 1994. Attachment: November 1994 Auditor's Report.

The Committee recommended acceptance of the report.

- (6) Quarterly Audit Follow-up Report for Quarter Ending October 30, 1994. Quarterly Follow-Up Report on Priority 1 and Priority 2 Audit Recommendations for Quarter ending October 31, 1994.

The Committee recommended acceptance of the report.

- (7) Update on Sales Tax Audit. Attachment: Correspondence from City Auditor Silva, dated December 12, 1994, transmitting the "Sales and Business Tax Audit Results" report for the five months ended November 30, 1994..

This was an information item only - no action required.

- (8) Comments and Recommendations on the City's System of Internal Accounting Control. Attachment: Memorandum from Finance Director, John V. Guthrie, dated December 7, 1994, making said recommendations.

The Committee recommended acceptance of the report with a follow-up report in six months.

- (9) Committee Schedule

The next meeting is scheduled for January 25, 1995 at 10:00 a.m.

- (10) Adjournment

The meeting was adjourned at 11:50 a.m.

Discussion/Action: Upon motion by Council Member Woody, seconded by Council Member Johnson, and unanimously carried, the Committee report and actions of January 11, 1995, were accepted. Vote: 10-0-0-0-1. Vacant: District 10.

LAND USE AND DEVELOPMENT

8a PUBLIC HEARING ON APPEAL OF THE DENIAL of the Conditional Use Permit for an approximately 125 square-foot drive-through retail use on a 6.15

gross acre site in the C-3 Commercial Zoning District located at the northwesterly corner of Saratoga Avenue and Prospect Road (Joseph P. Franco, Owner; Caffino, Inc., Developer). CEQA: Exempt.

CP 94-07-053 - District 1

(Deferred from 1/10/95 - Item 8b)

Documents filed: Correspondence from Ruth and Going, Inc., dated January 23, 1995, requesting a thirty day continuance.

Discussion/Action: This item was continued to February 21, 1995 at the applicant's request.

- 8b PUBLIC HEARING on the designation of the Southern Pacific Depot buildings and site, located at 65 Cahill Street, south of the San Jose Arena, for consideration as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature. CEQA: Exempt. (Planning)**

Documents filed: (1) Memorandum from Historic Landmarks Commission, dated January 6, 1995, recommending Council adopt a resolution making said designation. (2) Proof of Publication of Notice of Public Hearing submitted by the City Clerk. (3) Affidavit of Mailing submitted by the City Clerk. (4) Affidavit of Routing submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing. Upon motion by Council Member Fiscalini, seconded by Council Member Woody, and unanimously carried, the public hearing was closed, and Resolution No. 65705, entitled: "A Resolution of the Council of the City of San Jose Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code, The Southern Pacific Depot as a Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of a Historic Nature", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

- 8c PUBLIC HEARING on the designation of the Old Hoover School building and site, located at 1671 Park Avenue, across the street from the Rosicrucian Museum, for consideration as a landmark of special historic, architectural, cultural, aesthetic, or engineering interest or value of a historic nature. CEQA: Exempt. (Planning)**

Documents filed: (1) Memorandum from Historic Landmarks Commission, dated January 6, 1995, recommending Council adopt a resolution making said designation.

(2) Proof of Publication of Notice of Public Hearing submitted by the City Clerk. (3) Affidavit of Routing submitted by the City Clerk. (4) Affidavit of Mailing submitted by the City Clerk. (4) Correspondence from the San Jose Unified School District to Brother Patrick, dated January 9, 1995, responding to Brother Patrick's proposal.

Discussion/Action: Mayor Hammer opened the public hearing. The following citizens addressed Council in support of the proposal: Fred Rupprecht; Karen Vierra, Rose Garden Neighborhood Preservation Association; Ellen Garboske, Preservation Action Council of San Jose; Verna M. Potter, Shasta/Hanchett Park Neighborhood Association; Brother Patrick, OCSO, San Jose Abbey; Yolanda Reynolds, Yvonne Hermon, and Dale Swanson. Brother Patrick informed Council that in conversations with Dr. Barry Schimmel, Deputy Superintendent, General Services, San Jose Unified School District, he had proposed to retrofit the building at no cost to the City. Mayor Hammer asked what he envisioned for the building. Brother Patrick stated his intention was to give the building back to the community which has used it for the past twenty years and the community should determine its future use. Council Member Fiscalini stated the Hoover School building is important for historical reasons as representative of an era, and of the work of Architect William Weeks, one of the foremost leaders in the design field for schools. He pointed out the building is the property of the San Jose Unified School District, which will determine how the building is used, and the City Council has no control over its ultimate disposition, although Council has an interest in seeing the building preserved, and he moved approval of the Staff recommendation. Council Member Johnson seconded the motion. Council Member Pandori asked the City Attorney to comment on the special permit required for demolition of an historic landmark and the school district's contention they are exempt from that requirement. City Attorney Gallo stated that as long as the property is used for school district purposes, it is not subject to the City's zoning code, however if the building were demolished for a non-school district or proprietary purpose, the City's historic landmark status would have to be taken into consideration. She advised the City would dispute school district actions to demolish the building with no use plan in place. Council Member Pandori asked that as part of the action of Council, the Mayor be directed to send a letter on behalf of the Council urging preservation of the building. Mayor Hammer suggested she explore a collaborative project for joint use of the building between the City and the school

8c (Cont'd.)

district, and asked Council Member Fiscalini if discussions should be postponed until the school district master plan is developed. Council Member Fiscalini advised the master plan is in the final phase and suggested the Mayor contact Superintendent Linda Murray to convey the Council's interest in and concerns about this project. Upon a call for the question, the motion by Council Member Fiscalini was unanimously carried, the public hearing was closed, and Resolution No. 65706, entitled: "A Resolution of the Council of the City of San Jose Designating, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code, Old Hoover School as a Landmark of Special Historical, Architectural, Cultural, Aesthetic

or Engineering Interest or Value of a Historic Nature”, was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

8d PUBLIC HEARING on the Partial Cancellation of California Land Conservation (Williamson Act) Contract No. 72-063 for property located on the northeasterly side of San Felipe Road, southerly of Silver Creek Road. CEQA: Resolution No. 64286. (Planning)

Documents filed: None.

Discussion/Action: This item was continued to February 7, 1995.

8e PUBLIC HEARING on the application of All Points Roll-Off, Inc., for a Mixed Recyclables Collection Franchise, approval of an ordinance granting the franchise, and approval of the Mixed Recyclables Collection Franchise Agreement with All Points Roll-Off, Inc. (Environmental Services)

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 6, 1995, recommending approval of said franchise application, ordinance, and franchise agreement. (2) Proof of Publication of Notice of Public Hearing submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing. There was no discussion from the floor. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson, and unanimously carried, and the public hearing was closed, the franchise application and agreement with All Points Roll-Off, Inc., were approved, and Ordinance No. 24804, entitled: “An Ordinance of the City of San Jose Granting a Mixed Recyclables Collection Franchise to All Points Roll-Off, Inc., was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10.

8f PUBLIC HEARING on the application of NOR CAL Debris Box Service for a Commercial Solid Waste Collection Franchise, approval of an ordinance granting the franchise, and approval of the Commercial Solid Waste Collection Franchise Agreement with NOR CAL Debris Box Service, all of which are to be effective January 1, 1995. (Environmental Services)

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 6, 1995, recommending approval of said franchise application, ordinance, and franchise agreement. (2) Proof of Publication of Notice of Public Hearing submitted by the City Clerk.

Discussion/Action: Mayor Hammer opened the public hearing. There was no discussion from the floor. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson, and unanimously carried, and the public hearing was closed, the

franchise application and agreement with NOR CAL Debris Box Service, were approved, and Ordinance No. 24805, entitled: "An Ordinance of the City of San Jose Granting a Commercial Solid Waste Collection Franchise to NOR CAL Debris Box Service," was passed for publication. Vote: 10-0-0-0-1. Vacant: District 10.

GENERAL GOVERNMENT

- 9a Report on bids and award of contract for the construction project entitled "San Jose/Santa Clara Water Pollution Control Plant, Plant Modernization, West Primary Rehabilitation, Phase III" to the low bidder, Anderson Pacific Engineering Construction, Inc., in the amount of \$1,136,797. CEQA: Exempt. (Environmental Services)**

Documents filed: (1) Memorandum from Director of Environmental Services, Louis N. Garcia, dated January 6, 1995, recommending award of contract to the low bidder, Anderson Pacific Engineering Construction, Inc. (2) Memorandum from Director of Affirmative Action/Contract Compliance, Steven T. Wing, dated January 19, 1995, stating the Office of Contract Compliance concurs with the recommended award.

Discussion/Action: William Garbett addressed the Council in opposition to this proposal. Upon motion by Council Member Fiscalini, seconded by Vice Mayor Johnson, and unanimously carried, the award of contract to the low bidder, Anderson Pacific Engineering Construction, Inc., was approved. Vote: 10-0-0-0-1. Vacant: District 10.

- 9b Approval of an amendment to the Master Agreements with the City of Santa Clara, City of Milpitas, West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District 2-3, Burbank Sanitary District, and Sunol Sanitary District, and for all parties to approve and execute to confirm the cost allocation for the South Bay Water Recycling Project (SBWRP). (Environmental Services)**

Documents filed: None.

Discussion/Action: This item was deferred to February 21, 1995.

- 9c Adoption of a resolution approving the:**
(1) Process and timeline for completing the federally-required Consolidated Planning Submission (CONPLAN).

**(2) Consolidation of the Community Development Block Grant (CDBG) program year into the July 1-June 30 program year already in effect for the HOME Investment Partnership Program, Emergency Shelter Grant Program, and the Consolidated Planning Submission.
(Housing/Neighborhood Services)**

Documents filed: (1) Memorandum from Director of Housing Sanchez and Director of Neighborhood Services Penn, dated January 20, 1995, recommending approval of the process and timeline for completing the Consolidated Planning Submission and the Community Development Block Grant Review Process.

Discussion/Action: Upon motion by Council Member Fiscalini, seconded by Council Member Powers, and unanimously carried, Resolution No. 65707, entitled: "A Resolution of the Council of the City of San Jose Approving the 1) Process and Timeline for Completing the Federal Consolidated Planning Submission and 2) Consolidation of the Community Development Block Grant Program Year into the July 1-June 30 Program Year for the Consolidated Planning Commission", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

9d Discussion and approval of the six month status report on the Youth Protection Ordinance. (Police)

Documents filed: None.

Discussion/Action: This item was deferred to February 7, 1995 to be heard in the evening.

9e Discussion and approval of the Fourth Quarter Ticket Distribution Program Report of the San Jose Arena Authority. (San Jose Arena Authority)

Documents filed: Correspondence from Executive Director Michael D. Ellzey, San Jose Arena Authority, dated January 6, 1995, transmitting the Fourth Quarter 1994 Ticket Distribution Program Report and recommending acceptance.

Discussion/Action: Mayor Hammer commended Mike Ellzey for a fine job of making the City's box available to members of the community. Upon motion by Council Member Fiscalini, seconded by Council Member Johnson, and unanimously carried, the report was accepted. Vote: 10-0-0-0-1. Vacant: District 10.

**9f Election of Vice-Mayor. (Mayor)
(Rules Committee referral 1/18/95)**

Documents filed: None.

Discussion/Action: Upon motion by Council Member Powers, seconded by Council Member Fiscalini, and unanimously carried, Council Member Trixie Johnson was unanimously elected to the position of Vice-Mayor. Vote: 10-0-0-0-1. Vacant: District 10.

**9g Adoption of a resolution proclaiming the extension or the termination of the state of local emergency, and designating the authorized public assistance representative and individual assistance representative of the City of San Jose. (City Attorney's Office)
(Rules Committee referral 1/18/95)**

Documents filed: Memorandum from City Manager Regina V.K. Williams, dated January 19, 1995, recommending Council terminate the local emergency on January 24, 1995, and appoint staff as authorized representatives for the purpose of receipt, processing and coordination of all inquiries and requirements necessary to obtain available State and local assistance.

Discussion/Action: City Attorney Gallo advised the intent was to terminate the state of local emergency designation to allow for extension of the declaration unless weather conditions changed subsequent to posting of the agenda. City Manager Williams publicly acknowledged the work of the Staff in dealing with the emergency situation, and advised that Staff held a debriefing session to identify areas which need improvement. She requested any additional feedback from the Council regarding

9g (Cont'd.)

the City's handling of the flooding and related problems caused by the unprecedented winter rainy season just ended, and suggested reviewing the City's Emergency Operation Plan with the Council. Mayor Hammer suggested a Committee of the Whole meeting for that purpose and requested a report on the information derived from the debriefing session. Council Member Fernandes stated she was pleased with the City's immediate action to deal with the threat of flooding, especially in Alviso, and advised the Alviso Task Force made suggestions to the evaluation team. Council Member Fiscalini expressed appreciation to the Staff for their hard work to help the residents who were flooded and supported the debriefing process for improving the emergency plan where needed. Council Member Pandori requested Staff secure a report from the Water District as to the magnitude of the flood, and commented on the area south of the Guadalupe River Park Flood Control Project, which has encountered delays and which is the area where residents were flooded out, and asked the timing for completion of the project. He reported that during the flooding, residents along the Guadalupe River had difficulty in locating pumping equipment, and requested Staff determine what if any emergency equipment is available from the Santa Clara Valley Water District and how residents are notified of available services. Mayor Hammer noted that completion on 280 South is not scheduled for completion until around 2005, and suggested Council make that issue a legislative

priority and work through John Montgomery, San Jose's Washington representative, and Congressman Mineta and Congresswoman Lofgren to try to accelerate that project. Mayor Hammer thanked the Staff for the concentrated efforts of the City Departments to provide an excellent emergency response. Upon motion by Council Member Fiscalini, seconded by Council Member Fernandes, and unanimously carried, Council approved the Staff recommendation dated January 19, 1995, proclaiming the termination of the state of local emergency and designating authorized representatives, and directed the Administration to report to Council on Staff Debriefings of the State of Emergency and schedule a presentation to Council on the City's emergency operations process; to report to Council on the magnitude of the flood as determined by the Santa Clara Valley Water District and what emergency services they offer; to investigate the timing for completion of the Guadalupe River Park Flood Control Project, and to conduct discussions with City Representative John Montgomery, Congressman Mineta and Congresswoman Lofgren relative to moving forward the schedule for completion of work on South Rt. 280, and Resolution No. 65708, entitled: "A Resolution of the Council of the City of San Jose Proclaiming the Termination of the Local Emergency and Designating Authorized Public Assistance and Individual Assistance Representatives", was adopted. Vote: 10-0-0-0-1. Vacant: District 10.

CLOSED SESSION REPORT

City Attorney Joan R. Gallo disclosed the following Closed Session actions of January 24, 1995:

- A. Pending Litigation - Settlements Authorized:
 - 1. Case Name: In re Anderson
Substance of Settlement: Approval of settlement of Workers' Compensation action in the amount of \$26,750.
Vote: 8-0-2-0-1. Absent: Fernandes, Johnson. Vacant: District 10.
 - 2. Case Name: In re Simpson
Substance of Settlement: Approval of settlement of Workers' Compensation action in the amount of \$45,000.
Vote: 7-1-2-0-1. Noes: Pandori. Absent: Fernandes, Johnson.
Vacant: District 10.

ORAL COMMUNICATIONS

Ross Signorini addressed Council on ways to generate savings in the City's budget.

ADJOURNMENT

The Council of the City of San Jose adjourned at 2:47 p.m. in memory of Brian Perkin, James Spadafore, and Robert Leeman, Civil Air Patrol Pilots, and in memory of the victims of the Kobe earthquake.

SUSAN HAMMER, MAYOR

ATTEST:

**PATRICIA L. O'HEARN
CITY CLERK**

DC/1/24/95